

WRITTEN TESTIMONY OF JOHN MASTERSON,
IN SUPPORT OF HB-541
Montana House Judiciary Committee
March 10th, 2009

Summary: Arresting adults for possessing marijuana is an expensive government program that hurts people and is ineffective.

HB-541 would reduce those expenses and harms and is worthy of your support.

Introduction:

My name is John Masterson, and I am before this committee today to speak in support of HB-541. I am a founder and owner of a technology company with customers in all fifty states, over one million dollars in annual revenue, and 12 employees in Missoula.

I have also been studying marijuana policy in Montana for more than ten years, and since 2007 have served as chairman of the Missoula County Oversight Committee for Initiative #2, which recommends that law enforcement should treat adult marijuana activity as their lowest possible priority. The initiative passed in November 2006, with over 80% approval in some county precincts.

Among the Committee's responsibilities is a requirement that we report semi-annually on the effects of the lowest priority recommendation. To that end, we have been collecting incident data from Missoula's county and city law enforcement agencies regarding adult possession of marijuana.

It is with this background that I have come to the conclusion that our current policy towards adult use of marijuana is an expensive government program that hurts people and is ineffective.

HB-541 would reduce those expenses and harms and is worthy of your support.

Arresting adults for marijuana possession is EXPENSIVE.

While an individual adult marijuana charge may not cost the state exorbitant sums, the sheer volume of such incidents adds up fast.

In Missoula County alone, using data provided by the Missoula County Sheriff's Department and the Missoula Police Department, the committee recorded an average of one adult marijuana incident per day.

Each of these incidents has the potential to generate many taxpayer-funded expenses. The committee continues to work to gather accurate cost estimates, and so far we have relatively solid data for these two sources of taxpayer expenses:

- Law enforcement officers' time dealing directly with the incident (arrest, transport, booking)
- City/County Prosecution preparation expenses

The committee's latest report estimates that between the direct incident handling and prosecution time, Missoula spent over \$40,000 in 2008 handling adult marijuana incidents. However, the sources of taxpayer expense associated with arresting adults for marijuana possession go far beyond direct law enforcement and prosecution expenses, and include at least:

- Judicial case review expenses
- Court staff time expenses
- Court-ordered body fluid analysis expenses
- City Jail expenses
- County Detention Center expenses
- Evidence storage expenses
- "NIK test" evidence analysis expenses
- Public Defender defense expenses
- Administrative & IT overhead, record keeping expenses

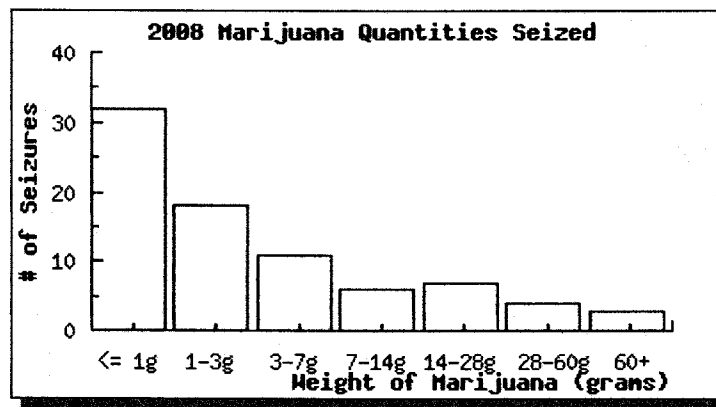
Once cost estimates are gathered for the remaining items above, I anticipate that the expenses for Missoula County alone will run in the hundreds of thousands of dollars per year.

*In 2005, Harvard economist Dr. Jeffrey Miron estimated that taxpayer-borne expenses associated with arresting, prosecuting, and incarcerating adults for marijuana crimes costs Montana **\$9 million per year**. (See: www.prohibitioncosts.org)*

Arresting Adults for Marijuana Possession Needlessly HURTS PEOPLE:

City and county law enforcement agencies in Missoula record an adult marijuana incident, on average, every single day. Law enforcement officials with whom I've spoken assert that the majority of these incidents are incidental to a separate event, whether it be running a stop sign, speeding, disorderly conduct, etc.

Among a six-month sample of Missoula's city and county marijuana seizures in which the weight of marijuana was recorded, we found that vast majority of these incidents involve a very small amount of marijuana:



(Source: www.co.missoula.mt.us/initiative2/reports/)

Because possession of even small personal amounts of marijuana constitutes a criminal act, subject to 6 months of imprisonment for a first offense, the individuals accused face numerous direct and indirect harms.

Asset Forfeiture: allows government to seize property from citizens based on the suspicion of commission of a drug crime – regardless of whether they are convicted or even charged. This can encourage local law enforcement to engage in 'asset hunting' rather than solving crimes against people and property, such as assault, rape, murder, theft, and arson.

Direct Personal Costs:

- Legal fees, fines, court costs
- Lost wages due to court appearances, attorney meetings, jail
- Lost jobs due to criminal convictions
- Loss of federal student loan eligibility
- Loss of veteran benefits
- Loss of gun ownership rights

Social, Psychological costs:

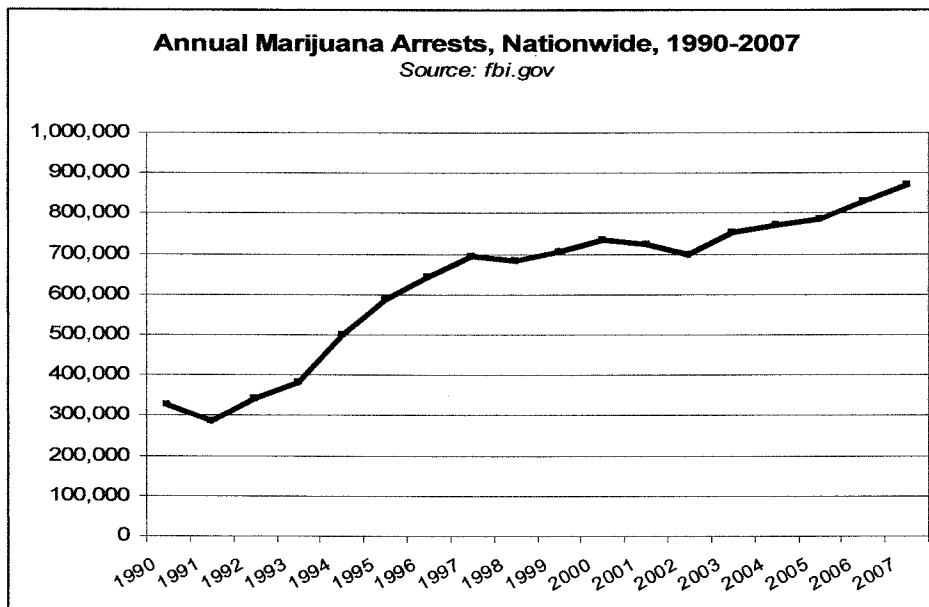
- Direct emotional stress from arrest, temporary incarceration, prosecution
- Familial stress
- Loss of faith in criminal justice system, a sense among arrestees that they have done nothing morally or ethically wrong, and resent being treated as a criminal.

Arresting Adults for Marijuana Possession is INEFFECTIVE:

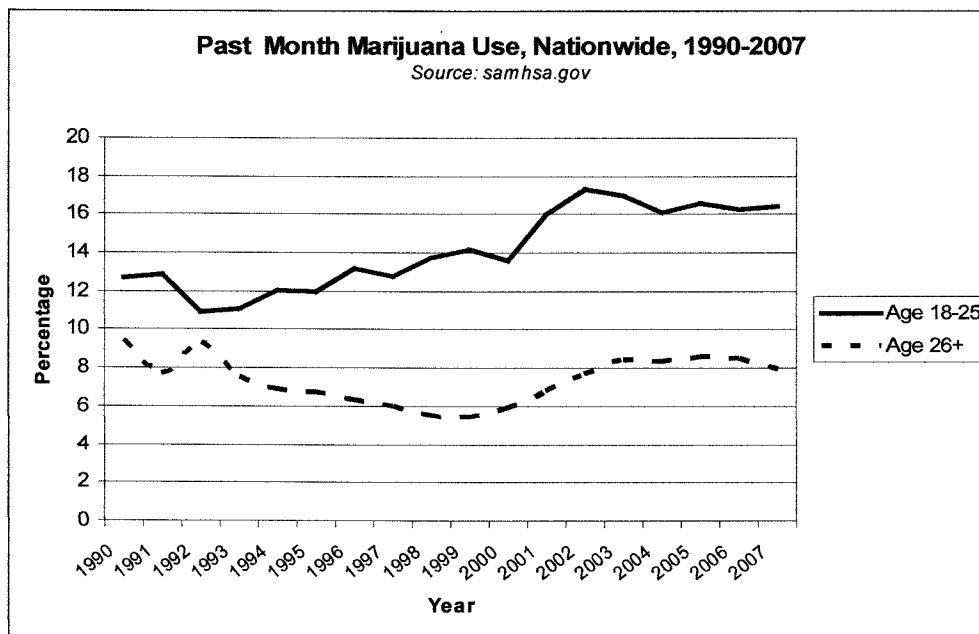
The public policy goals of arresting adults for marijuana possession include at least:

- Reducing the rate of marijuana use
- Reducing the availability of marijuana

Nationwide, there has been a tremendous surge in marijuana arrests since about 1992:

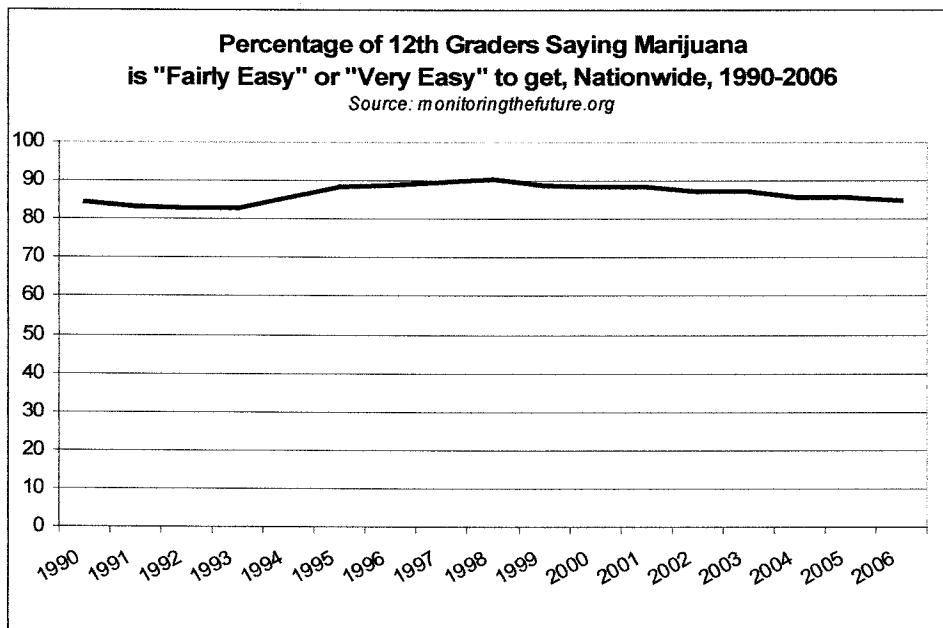


During that same time period, self-reports of past-month adult marijuana use have remained steady or climbed slightly:



Also during the same time period, 12th-graders have consistently rated marijuana as "Fairly Easy" or

"Very Easy" to obtain:



From the data above, it's clear that the public policy goals of reducing use and/or reducing availability have not been met.

Marijuana use is extremely common and is by far the most popular currently illegal drug. Nearly a third of all Americans have used marijuana in their lifetimes. Around 100,000 Montanans used marijuana at least once in 2007. (Source: www.oas.samhsa.gov)

The federal government claim that marijuana potency has increased and that "this is not your parents' marijuana" is partially true. Average THC (the primary active ingredient in marijuana) in seized samples has risen modestly over several decades to about 9% THC, according to the 2009 National Drug Threat Assessment published by the U.S. Department of Justice.

Besides being *yet another* sign that current marijuana policy is ineffective, higher potency doesn't necessarily mean the marijuana is more dangerous to those who consume it. After all, the pharmaceutical pill version of THC, Marinol®, is **100%** THC.

For the reasons above, I hope that you will agree with me and the majority of Montanans that the current policy of arresting adults for possession of personal amounts of marijuana is an expensive government policy that needlessly harms people and is ineffective.

HB-541 will reduce those harms and expenses. It is good public policy, and I thank you for supporting it.

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